

KITS

4-26-2006 Version # 2



BOARD OF COUNTY COMMISSIONERS ZONING HEARINGS

COUNTY COMMISSIONERS CHAMBERS OF THE STEPHEN P. CLARK CENTER -
2ND FLOOR

111 NW 1 Street, Miami

Thursday, May 25, 2006 at 9:30 a.m.

PREVIOUSLY DEFERRED

DISTRICT

A. 05-9-CZ15-4	LE DEVELOPMENT LIMITED This item scheduled for Community Zoning Appeals Board #15 (CZAB-15) on 10-24-05, was cancelled due to Hurricane Wilma. It has been revised and rescheduled to this Board due to the municipal incorporation of a portion of the CZAB-15 area.	05-93	17-56-40	N	8
B. 05-10-CZ15-4	LE DEVELOPMENT, LTD. This item scheduled for Community Zoning Appeals Board #15 (CZAB-15) on 10-24-05, was cancelled due to Hurricane Wilma. It has been rescheduled to this Board due to the municipal incorporation of a portion of the CZAB-15 area.	05-97	17-56-40	N	8
C. 06-4-CC-3	SILVER PALM HOLDINGS OF HOMESTEAD LLC	05-245	24-56-39 & 18/19-56-40	N	8

APPEALS

DISTRICT

1. 05-5-CZ10-3	8TH STREET HOLDINGS, LLC F/K/A: FRANK & GEORGETTE BREIVOGEL	04-389	11-54-40	N	6
2. 06-1-CZ14-1	REDLANDS COVE DEVELOPMENT, L.L.C.	05-94	33-56-39	N	8
3. 06-1-CZ14-5	CORREA VENTURES, INC. F/K/A: NEWFOREST LANDSCAPING, INC.	05-267	14-57-38	N	8

1. 8TH STREET HOLDINGS, LLC F/K/A:
FRANK & GEORGETTE BREIVOGEL
(Applicant)

05-5-CZ10-3 (04-389)
BCC/District 6
Hearing Date: 5/25/06

Property Owner (if different from applicant) **Same.**

Is there an option to purchase ☒ /lease ☐ the property predicated on the approval of the zoning request? Yes ☒ No ☐

If so, who are the interested parties? **152 Street Holding LLC**

Disclosure of interest form attached? Yes ☒ No ☐

Previous Zoning Hearings on the Property:

<u>Year</u>	<u>Applicant</u>	<u>Request</u>	<u>Board</u>	<u>Decision</u>
				NONE

Action taken today does not constitute a final development order, and one or more concurrency determinations will subsequently be required. Provisional determinations or listings of needed facilities made in association with this Initial Development Order shall not be binding with regard to future decisions to approve or deny an Intermediate or Final Development Order on any grounds.

**MIAMI-DADE COUNTY DEPARTMENT OF PLANNING AND ZONING
RECOMMENDATION TO THE BOARD OF COUNTY COMMISSIONERS**

APPLICANT: 8 Street Holdings, LLC,
F/K/A: Frank and Georgette Breivogel

PH: Z04-389 (05-5-CZ10-3)

SECTION: 11-54-40

DATE: May 25, 2006

COMMISSION DISTRICT: 6

ITEM NO.: 1

A. INTRODUCTION

o **REQUEST:**

8 Street Holdings, LLC, F/K/A: Frank and Georgette Breivogel are appealing the decision of Community Zoning Appeals Board #10, which denied the following:

RU-3b to IU-1

o **SUMMARY OF REQUEST:**

The applicant requested and was denied a zone change on the subject property from RU-3b, Bungalow Court District, to IU-1, Industrial Light Manufacturing District. The applicant is appealing this denial.

o **LOCATION:**

Lying on the northeast corner of SW 9 Street and SW 68 Court, and southeast corner of SW 9 Street and SW 68 Court, Miami-Dade County, Florida.

o **SIZE:** 2.86 acres

o **IMPACT:**

This application will allow the applicant to provide industrial uses and services for the community. The proposed industrial rezoning of the subject property will increase traffic and noise in the area.

B. ZONING HEARINGS HISTORY:

In 1980 an Administrative Variance application, number V1980000016, approved a variance of lot frontage and area requirements to permit a 2-story duplex.

C. COMPREHENSIVE DEVELOPMENT MASTER PLAN (CDMP):

1. The Adopted 2005 and 2015 Land Use Plan designates the subject property as being within the Urban Development Boundary for **industrial and office**. Industries, manufacturing operations, warehouses, mini-warehouses, office buildings, wholesale showrooms, distribution centers, merchandise marts and

similar uses are permitted in areas designated as "Industrial and Office" on the LUP map. Also included are construction and utility-equipment maintenance yards, utility plants, public facilities, hospitals and medical buildings. Limited commercial uses to serve the firms and workers in the industrial and office area are encouraged, dispersed as small business districts and centers throughout the industrial areas. Hotels and motels are also authorized. Free-standing retail and personal service uses and shopping centers larger than 10 acres in size are prohibited in these areas because they would deplete the industrial land supply and they are better located in commercially designated areas and in closer proximity to residential areas. Free-standing retail and personal service uses and shopping centers that are approved in Industrial and Office areas should front on major access roads, particularly near major intersections. In addition, uncommon commercial uses such as amusement uses, and others with unusual siting requirements may also be considered at appropriate locations. Quarrying activities and ancillary uses may also be approved in areas designated Industrial and Office where compatible with the surrounding area and environment. The specific range and intensity of uses appropriate in a particular Industrial and Office area vary by location as a function of the availability of public services and access and, among other factors, compatibility with neighboring development. Through the zoning review process, use of particular sites or areas may be limited to something less than the maximum allowed in this category. Moreover, special limitations may be imposed where necessary to protect environmental resources.

2. Some existing uses and zoning are not specifically depicted on the LUP map. All existing lawful uses and zoning are deemed to be consistent with this Plan as provided in the section of this chapter titled "Concepts and Limitations of the Land Use Plan Map". The limitations referenced in this paragraph pertain to existing zoning districts and uses. All approval of new industrial locations must be consistent with the LUP map or the specific exceptions provided in the various LUP map categories, the objectives and policies of this Plan.
3. Objective 9
Miami-Dade County shall continue to maintain, update and enhance the Code of Miami-Dade County, administrative regulations and procedures, and special area planning program to ensure that future land use and development in Miami-Dade County is consistent with the CDMP, and to promote better planned neighborhoods and communities and well designed buildings.

D. NEIGHBORHOOD CHARACTERISTICS:

ZONING

LAND USE PLAN DESIGNATION

Subject Property:

RU-3b; Vacant Parcel-Mobile Homes

Industrial and Office

Surrounding Properties:

<u>NORTH:</u>	BU-2; Retail	Business and Office
<u>SOUTH:</u>	RU-3b; Single-Family Residence and Multifamily/ duplex	Industrial and Office
<u>EAST:</u>	BU-1A; Retail	Business and Office
<u>WEST:</u>	IU-1; Warehouse-Storage and Multifamily/ Duplex	Industrial and Office

The subject property is located on the northeast corner of SW 68 Court and SW 9 Street, and southeast of SW 68 Court and SW 9 Street. The area where the subject property lies is characterized by vacant parcels, mobile homes and parcels developed with warehouses.

E. SITE AND BUILDINGS:

Site Plan Review:	(no plan submitted)
Scale/Utilization of Site:	Acceptable
Location of Buildings:	N/A
Compatibility:	Acceptable
Landscape Treatment:	N/A
Open Space:	N/A
Buffering:	N/A
Access:	Acceptable
Parking Layout/Circulation:	N/A
Visibility/Visual Screening:	N/A
Energy Considerations:	N/A
Roof Installations:	N/A
Service Areas:	N/A
Signage:	N/A
Urban Design:	N/A

F. PERTINENT REQUIREMENTS/STANDARDS:

In evaluating an application for a **district boundary change**, **Section 33-311** provides that the Board shall take into consideration, among other factors the extent to which:

1. The development permitted by the application, if granted, conforms to the Comprehensive Development Master Plan for Miami-Dade County, Florida; is consistent with applicable area or neighborhood studies or plans, and would serve a public benefit warranting the granting of the application at the time it is considered;
2. The development permitted by the application, if granted, will have a favorable or unfavorable impact on the environmental and natural resources of Miami-Dade County, including consideration of the means and estimated cost necessary to

minimize the adverse impacts; the extent to which alternatives to alleviate adverse impacts may have a substantial impact on the natural and human environment; and whether any irreversible or irretrievable commitment of natural resources will occur as a result of the proposed development;

3. The development permitted by the application, if granted, will have a favorable or unfavorable impact on the economy of Miami-Dade County, Florida;
4. The development permitted by the application, if granted, will efficiently use or unduly burden water, sewer, solid waste disposal, recreation, education or other necessary public facilities which have been constructed or planned and budgeted for construction;
5. The development permitted by the application, if granted, will efficiently use or unduly burden or affect public transportation facilities, including mass transit, roads, streets and highways which have been constructed or planned and budgeted for construction, and if the development is or will be accessible by public or private roads, streets or highways.

G. NEIGHBORHOOD SERVICES:

DERM	No objection*
Public Works	No objection*
Parks	No objection
MDTA	No objection
Fire Rescue	No objection
Police	No objection
Schools	No comment

* Subject to the conditions stated in their memoranda.

H. ANALYSIS:

8 Street Holdings, LLC, F/K/A: Frank and Georgette Breivogel are appealing the decision of the Community Zoning Appeals Board #10 (CZAB-10) which, on January 10, 2006, denied without prejudice their application for a district boundary change. Pursuant to Resolution No.CZAB10-3-06, the CZAB-10 denied the request for a zone change on the subject property from RU-3b, Bungalow Court District, to IU-1, Industrial Light Manufacturing District. The applicant has now proffered a covenant restricting certain industrial uses that will be restricted from being developed on the site the requested district boundary change to IU-1 is approved. The proffered covenant restricts, among others, the following uses to be prohibited on the subject property: adult entertainment uses, aircraft hangars and repair shops, armories, automobile and truck rentals, boat or yacht repairing, overhauling, or building, breweries, ornamental metal workshops, etc.

The appellant states that the request for a district boundary change is compatible with the surrounding residential area. They also indicate that the Community Zoning Appeals Board failed to take into account substantial competent evidence and that their proposal is

both consistent with the property's land use designation and compatible with the existing and foreseeable development surrounding the property. Staff notes that the Land Use Plan (LUP) map of the Comprehensive Development Master Plan (CDMP) designates this site for **Industrial and Office** use. As such, the requested IU-1 zoning is consistent with the CDMP. Additionally, all existing lawful uses and zoning are deemed to be consistent with the Master Plan as provided in the "Concepts and Limitations of the Land Use Plan Map" of the CDMP. As such, the existing RU-3b zoning is also deemed to be consistent.

The applicant, 8 Street Holdings, LLC, F/K/A: Frank and Georgette Breivogel, are requesting a district boundary change from RU-3b, Bungalow Court District, to IU-1, Industrial Light Manufacturing District, on a 2.86-acre parcel of land located on the northeast corner of SW 68 Court and SW 9 Street, and southeast of SW 68 Court and SW 9 Street. The subject property is divided by SW 9th Street, the north portion consists of 18 lots and the south portion consists of 16 lots which are either currently vacant or have mobile homes. This area has a mixture of zoning and related uses. Surrounding the subject property are IU-1 zoned parcels to the west (developed with warehouses and offices), a BU-1A zoned parcel to the east (developed with retail), a BU-2 zoned parcel to the north (developed with retail) and RU-3b zoned parcels to the south with development in that zoning district ranging from a trailer park, duplexes to older single family residences.

The Department of Environmental Resources Management (**DERM**) has **no objections** to this application and has indicated that it meets the Level of Service (LOS) standards set forth in the Master Plan. However, the applicant will have to comply with all DERM requirements as set forth in their memorandum pertaining to this application. The **Public Works Department** has **no objections** to this application and states in their memorandum that this property requires platting in accordance with Chapter 28 of the Miami-Dade County Code and road dedications and improvements will be accomplished through the recording of a plat. This application meets traffic concurrency because it lies within the urban infill area where traffic concurrency does not apply.

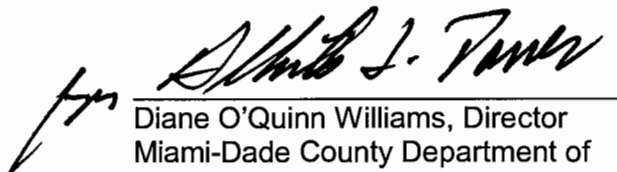
This application would provide industrial uses and services to the surrounding community. The Land Use Plan map designates the subject property for **industrial and office** use. Industries, manufacturing operations, warehouses, mini-warehouses, office buildings, wholesale showrooms, distribution centers, merchandise marts and similar uses are permitted by the CDMP in areas designated as "Industrial and Office" on the LUP map. Also included are construction and utility-equipment maintenance yards, utility plants, public facilities, hospitals and medical buildings. The requested IU-1 zoning district would permit, among other things, animal hospitals, furniture refinishers, caterers, bakeries, banks, hotels, and printing shops. Further, as the IU-1 zoning district permits industrial uses that may be considered to be incompatible with the adjacent residential development to the south, the applicant has proffered a covenant limiting the uses that may be developed on the site if the district boundary change is approved, by prohibiting development of certain uses, as listed in the covenant. As previously mentioned, the requested zone change to IU-1 on the subject property is deemed to be **consistent** with the Industrial and Office designation of the LUP map of the CDMP. Staff notes that IU-1 zoning is present on a parcel located to the west of the subject site. The establishment of IU-1 zoning on the subject property is in keeping with the development trend of this area.

Staff, therefore, recommends approval of the appeal and of this application, subject to the Board's acceptance of the proffered covenant.

- I. **RECOMMENDATION:** Approval of the appeal; approval of the zone change to IU-1, subject to the Board's acceptance of the proffered covenant.

- J. **CONDITIONS:** None

DATE INSPECTED: 02/18/05
DATE TYPED: 02/18/05
DATE REVISED: 04/06/05; 05/23/05; 06/23/05; 11/15/05; 11/29/05; 03/14/06; 3/30/06;
04/05/06; 04/11/06; 04/13/06
DATE FINALIZED: 04/29/06
DO'QW:AJT:MTF:LVT:JGM


Diane O'Quinn Williams, Director
Miami-Dade County Department of
Planning and Zoning

Memorandum



Date: January 20, 2005

To: Diane O'Quinn-Williams, Director
Department of Planning and Zoning

From: Jose Gonzalez, P.E., Acting Assistant Director
Environmental Resources Management

A handwritten signature in black ink, appearing to read "Jose Gonzalez", written over the printed name.

Subject: C-10 #Z2004000389
Frank & Georgette Breivogel
SW 9th Street & SW 68th Avenue
DBC from RU-3B to IU-1
(RU-3B) (2.86 Ac.)
11-54-40

DERM has reviewed the subject application and has determined that it meets the minimum requirements of Chapter 24 of the Code of Miami-Dade County, Florida. Accordingly, DERM may approve the application, and the same may be scheduled for public hearing.

Potable Water Supply and Wastewater Disposal:

Public water and public sanitary sewers can be made available to this property. Therefore, DERM will require connection to the public water supply and public sanitary sewer systems.

Existing public water and sewer facilities and services meet the Level of Service (LOS) standards set forth in the Comprehensive Development Master Plan (CDMP). Furthermore, the proposed development order, if approved, will not result in a reduction in the LOS standards subject to compliance with the conditions required by DERM for this proposed development order.

Notwithstanding the foregoing, in light of the fact that the County's sanitary sewer system has limited sewer collection, transmission, and treatment capacity, no new sewer service connections can be permitted, unless there is adequate capacity to handle the additional flows that this project would generate. Consequently, final development orders for this site may not be granted if adequate capacity in the system is not available at the point in time when the project will be contributing sewage to the system. Lack of adequate capacity in the system may require the approval of alternative means of sewage disposal. Use of an alternative means of sewage disposal may only be granted in accordance with Code requirements, and shall be an interim measure, with connection to the public sanitary sewer system required upon availability of adequate collection/transmission and treatment capacity.

Stormwater Management:

This project qualifies for a Surface Water Management General Permit, which shall be obtained from DERM prior to site development, final plat, or prior to obtaining Public Works Department approval of paving & drainage plans.

A drainage system must be designed for on-site flood protection from the 5-year/1-day storm and sufficient on-site storage to prevent off-site discharge from the 25 year/3-day storm.

Site grading and development shall comply with the requirements of Chapter 11C of the Code of Miami-Dade County.

Any proposed development shall comply with County and Federal flood criteria requirements. The proposed development order, if approved, will not result in a reduction in the Level of Service standards for flood protection set forth in the Comprehensive Development Master Plan subject to compliance with the conditions required by DERM for this proposed development order.

Hazardous Materials Management:

Due to the nature of uses allowed in the requested zoning classification, the applicant may be required to obtain DERM approval for management practices to control the potential discharge and spillage of pollutants associated with some land uses permitted in the proposed zoning district. The applicant is advised to contact the DERM Industrial Facilities Section concerning required management practices.

Operating Permits:

Section 24-35.1 of the Code authorizes DERM to require operating permits from facilities that could be a source of pollution. The applicant should be advised that due to the nature of some land uses permitted under the proposed zoning classification, operating permits from DERM might be required. It is therefore suggested that the applicant contact DERM concerning operating requirements.

Fuel Storage Facilities:

Section 24-12.2 of the Code outlines regulations for any proposed or existing underground storage facilities. The regulations provide design, permitting, installation, modification, repair, replacement and continuing operation requirements and criteria. In addition, monitoring devices, inventory control practices and pressure testing of fuel storage tanks is required. The Storage Tank Section of DERM should be contacted for permitting requirements in this regard, if any fuel storage facility is requested.

Hazardous Waste:

The subject site is located in close proximity to several contaminated sites; accordingly, the development of this property will require conditional approval from DERM. Said conditional approval will provide that the developer shall cease construction activities and immediately notify DERM upon encountering any contaminated areas.

Tree Preservation:

The subject contains two specimen-sized live oak and two strangler fig (trunk diameter \geq 18 inches) trees. Section 24-49 of the Code requires the preservation of tree resources. Consequently, DERM will require the preservation of all the specimen-sized (trunk diameter \geq 18 inches) trees, as defined in the Code, on the site. According to the site plan submitted with this zoning application, tree resources will not be impacted. DERM has no objection to this zoning application provided that no specimen-sized trees (trunk diameter greater than or equal to 18 inches) are removed or relocated, in which case a Miami-Dade County Tree Removal Permit is required.

Wetlands:

The subject site is not located in jurisdictional wetlands as defined in Chapter 24-5 and 24-48 of the Code; therefore, a Class IV Permit for work in wetlands will not be required by DERM.

Notwithstanding the above, permits from the Army Corps of Engineers (USACOE), the State of Florida Department of Environmental Protection (FDEP) and the South Florida Water Management District (SFWMD) may be required for the proposed project. The applicant is advised to contact these agencies concerning their permit procedures and requirements.

Enforcement History:

DERM has reviewed the Permits and Enforcement database and the Enforcement Case Tracking system and has found an open enforcement record for the subject property.

The record for folio no. 30-4011-008-0160 indicated the following:

- 4/26/04 DERM issued Notice of Violation (NOV) for required secondary treatment of wastewater generated from on-site trailer park, pursuant to the provisions of Florida Administrative Code (FAC) 62-600.420.
- 10/19/04 DERM granted time extension to comply with NOV until 3/2/2005.

Concurrency Review Summary:

The Department has conducted a concurrency review for this application and has determined that the same meets all applicable Levels of Service standards for an initial development order, as specified in the adopted Comprehensive Development Master Plan for potable water supply, wastewater disposal and flood protection. Therefore, the application has been approved for concurrency subject to the comments and conditions contained herein.

This concurrency approval does not constitute a final concurrency statement and is valid only for this initial development order as provided for in the adopted methodology for concurrency review. Additionally, this approval does not constitute any assurance that the LOS standards would be met by any subsequent development order applications concerning the subject property.

In summary, the application meets the minimum requirements of Chapter 24 of the Code and therefore, it may be scheduled for public hearing; furthermore, this memorandum shall constitute DERM's written approval to that effect as required by the Code.

cc: Lynne Talleda, Zoning Evaluation- P&Z
 Ron Connally, Zoning Hearings- P&Z
 Franklin Gutierrez, Zoning Agenda Coordinator-P&Z

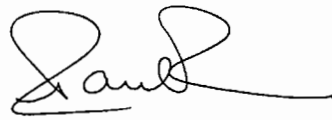
PUBLIC WORKS DEPARTMENT COMMENTS

Applicant's Names: FRANK & GEORGETTE BREIVOGEL

This Department has no objections to this application.

This land may require platting in accordance with Chapter 28 of the Miami-Dade County Code. The road dedications and improvements will be accomplished thru the recording of a plat.

This project meets traffic concurrency because it lies within the urban infill area where traffic concurrency does not apply.

A handwritten signature in black ink, appearing to read "Raul", with a long horizontal stroke extending to the right.

Raul A Pino, P.L.S.

22-NOV-04

PETITION OF APPEAL FROM DECISION OF
MIAMI-DADE COUNTY COMMUNITY ZONING APPEALS BOARD
TO THE BOARD OF COUNTY COMMISSIONERS

CHECKED BY DB

AMOUNT OF FEE 2,206.31

RECEIPT # I200618590

DATE HEARD: 1/10/2006

BY CZAB # 10306

RECEIVED
JAN 27 2006

ZONING HEARINGS SECTION
MIAMI-DADE PLANNING AND ZONING DEPT.
BY [Signature]
DATE RECEIVED STAMP

This Appeal Form must be completed in accordance with the "Instruction for Filing an Appeal" and in accordance with Chapter 33 of the Code of Miami-Dade County, Florida, and return must be made to the Department on or before the Deadline Date prescribed for the Appeal.

RE: Hearing No. 04-389

CZAB-10306

Filed in the name of (Applicant) Frank & Georgette Breivogel

Name of Appellant, if other than applicant 8 Street Holdings, LLC, a Florida limited liability company

Address/Location of APPELLANT'S property: 6840 SW 8 Street, Miami-Dade County, FL 33144

Application, or part of Application being Appealed (Explanation): Entire Application

Appellant (name): 8 Street Holdings, LLC, a Florida limited liability company hereby appeal the decision of the Miami-Dade County Community Zoning Appeals Board with reference to the above subject matter, and in accordance with the provisions contained in Chapter 33 of the Code of Miami-Dade County, Florida, hereby make application to the Board of County Commissioners for review of said decision. The grounds and reasons supporting the reversal of the ruling of the Community Zoning Appeals Board are as follows:
(State in brief and concise language)

The denial of the application was not based on substantial competent evidence. The proposal is both consistent with the property's land use designation and compatible with the existing and foreseeable development surrounding the property.

APPELLANT MUST SIGN THIS PAGE

Date: 19th day of January, year 2006

Signed _____

Print Name

Mailing Address

Phone

Fax

REPRESENTATIVE'S AFFIDAVIT

If you are filing as representative of an association or other entity, so indicate:

8 Street Holdings, LLC a Florida limited liability company
Representing

[Signature]
Signature

Juan J. Mayol, Jr., Esq.

Print Name

701 Brickell Avenue, Suite 3000

Address

Miami

FL

33131

City

State

Zip

305-374-8500

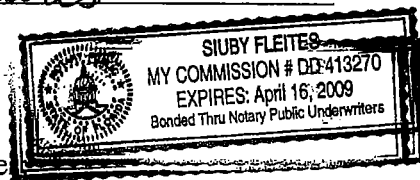
Telephone Number

Subscribed and Sworn to before me on the 19th day of January, year 2006

[Signature]
Notary Public

(stamp/seal)

Commission expires



APPELLANT'S AFFIDAVIT OF STANDING

(must be signed by each Appellant)

STATE OF FLORIDA

COUNTY OF MIAMI-DADE

Before me the undersigned authority, personally appeared Armando Alonso, Manager, 8 Street Holdings, LLC, a Florida limited liability company (Appellant) who was sworn and says that the Appellant has standing to file the attached appeal of a Community Zoning Appeals Board decision.

The Appellant further states that they have standing by virtue of being of record in Community Zoning Appeals Board matter because of the following:

(Check all that apply)

- ☒ 1. Participation at the hearing
☐ 2. Original Applicant
☐ 3. Written objection, waiver or consent

Appellant further states they understand the meaning of an oath and the penalties for perjury, and that under penalties of perjury, Affiant declares that the facts stated herein are true.

Further Appellant says not.

Witnesses:

[Signature]
Signature

Ismael Borges
Print Name

[Signature]
Signature

Antonio I. Alonso Jr.
Print Name

[Signature]
Appellant's signature

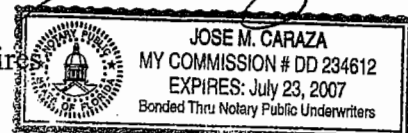
Armando Alonso
Manager, 8 Street Holdings, LLC,
a Florida limited liability company

Sworn to and subscribed before me on the 19 day of January, year 2006.

Appellant is personally know to me or has produced _____ as identification.

[Signature]
Notary
(Stamp/Seal)

Commission Expires _____



RESOLUTION NO. CZAB10-3-06

WHEREAS, **FRANK & GEORGETTE BREIVOGEL** applied for the following:

RU-3B to IU-1

SUBJECT PROPERTY: Lots 9-26, Block 3, and Lots 1-8 & Lots 25-32, Block 4, TAMIAMI CITY PLAT, Plat book 14, page 9.

LOCATION: Between S.W. 68 Court & S.W. 68 Avenue and both sides of S.W. 9 Street, Miami-Dade County, Florida, and

WHEREAS, a public hearing of the Miami-Dade County Community Zoning Appeals Board 10 was advertised and held, as required by law, and all interested parties concerned in the matter were given an opportunity to be heard, and

WHEREAS, upon due and proper consideration having been given to the matter, it is the opinion of this Board that the requested district boundary change to IU-1 would not be compatible with the neighborhood and area concerned and would be in conflict with the principle and intent of the plan for the development of Miami-Dade County, Florida, and should be denied, and

WHEREAS, a motion to deny the application without prejudice was offered by Carlos A. Manrique, seconded by Julio R. Caceres, and upon a poll of the members present the vote was as follows:

Juan Carlos Acosta	absent	Jose Garrido	aye
Julio R. Caceres	aye	Carlos A. Manrique	aye
Manuel Casas	aye		
	George A. Alvarez	aye	

NOW THEREFORE BE IT RESOLVED by the Miami-Dade County Community Zoning Appeals Board 10, that the requested district boundary change to IU-1 be and the same is hereby denied without prejudice.

The Director is hereby authorized to make the necessary notations upon the records of the Miami-Dade County Department of Planning and Zoning.

PASSED AND ADOPTED this 10th day of January, 2006.

Hearing No. 05-5-CZ10-3
ej

STATE OF FLORIDA

COUNTY OF MIAMI-DADE

I, Earl Jones, as Deputy Clerk for the Miami-Dade County Department of Planning and Zoning as designated by the Director of the Miami-Dade County Department of Planning and Zoning and Ex-Officio Secretary of the Miami-Dade County Community Zoning Appeals Board 10, DO HEREBY CERTIFY that the above and foregoing is a true and correct copy of Resolution No. CZAB10-3-06 adopted by said Community Zoning Appeals Board at its meeting held on the 10th day of January, 2006.

IN WITNESS WHEREOF, I have hereunto set my hand on this the 26th day of January, 2006.



Earl Jones, Deputy Clerk (3230)
Miami-Dade County Department of Planning and Zoning

SEAL





Memorandum

Date: 27-APR-06

To: Diane O'Quinn Williams, Director
Department of Planning and Zoning

From: Herminio Lorenzo, Fire Chief
Miami-Dade Fire Rescue Department

Subject: Z2004000389

Fire Prevention Unit:

This Memo Supersedes MDRF Memorandum dated April 10 2006.
NO PLANS AVAILABLE. At this stage this project is not applicable to FWE Site requirements.

Service Impact/Demand:

Development for the above Z2004000389
located at LYING BETWEEN S.W. 68 COURT & S.W. 68 AVENUE AND BOTH SIDES OF S.W. 9 STREET, MIAMI-
DADE COUNTY, FLORIDA.
in Police Grid 1399 is proposed as the following:

_____ dwelling units	62,291	square feet
residential	_____ industrial	
_____ square feet	_____	square feet
Office	_____ institutional	
_____ square feet	_____	square feet
Retail	_____ nursing home/hospitals	

Based on this development information, estimated service impact is: 2.61 alarms-annually.

Existing services:

The Fire station responding to an alarm in the proposed development will be:
Station 40 901 SW 62 Avenue West Miami
Rescue

Planned Service Expansions:

The following stations/units are planned in the vicinity of this development:
None

Fire Planning Additional Comments:

Service impact analysis calculated based on the floor ratio for Industrial Districts.

TEAM METRO

ENFORCEMENT HISTORY

FRANK & GEORGETTE BREVOGEL

LYING BETWEEN S.W. 68 COURT &
S.W. 68 AVENUE AND BOTH SIDES
OF S.W. 9 STREET, MIAMI-DADE
COUNTY, FLORIDA.

APPLICANT

ADDRESS

Z2004000389

HEARING NUMBER

CURRENT ENFORCEMENT HISTORY:

03/08/2006 Inspection conducted
03/08/2006 No current violations

DISCLOSURE OF INTEREST*

If a **CORPORATION** owns or leases the subject property, list principal, stockholders and percent of stock owned by each. [Note: Where principal officers or stockholders consist of other corporation(s), trust(s), partnership(s) or similar entities, further disclosure shall be made to identify the natural persons having the ultimate ownership interest].

CORPORATION NAME: 8th Street Holdings, LLC., a limited liability company

NAME AND ADDRESS/	Percentage of Stock
c/o Juan Mayol, Jr., Holland and Knight 701 Brickell Avenue Miami, Fl. 33131	
Orlando Borges	20%
Armando Alonso	40%
Antonio Alonso	40%

If a **TRUST** or **ESTATE** owns or leases the subject property, list the trust beneficiaries and percent of interest held by each. [Note: Where beneficiaries are other than natural persons, further disclosure shall be made to identify the natural persons having the ultimate ownership interest].

TRUST/ESTATE NAME: _____

NAME AND ADDRESS	Percentage of Interest
_____	_____
_____	_____
_____	_____
_____	_____

If a **PARTNERSHIP** owns or leases the subject property, list the principals including general and limited partners. [Note: Where partner(s) consist of other partnership(s), corporation(s), trust(s) or similar entities, further disclosure shall be made to identify the natural persons having the ultimate ownership interests].

PARTNERSHIP OR LIMITED PARTNERSHIP NAME: _____

NAME AND ADDRESS	Percentage of Ownership
_____	_____
_____	_____
_____	_____

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ZONING HEARINGS SECTION
MIAMI-DADE PLANNING AND ZONING DEPT.

BY _____

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If there is a **CONTRACT FOR PURCHASE** by a Corporation, Trust or Partnership, list purchasers below including principal officers, stockholders, beneficiaries or partners. [Note: Where principal officers, stockholders, beneficiaries or partners consist of other corporations, trusts, partnerships or similar entities, further disclosure shall be made to identify natural persons having ultimate ownership interests].

NAME OF PURCHASER: _____

NAME AND ADDRESS (if applicable)	Percentage of Interest
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Date of contract: _____

If any contingency clause or contract terms involve additional parties, list all individuals or officers, if a corporation, partnership or trust:

NOTICE: For changes of ownership or changes in purchase contracts after the date of the application, but prior to the date of final

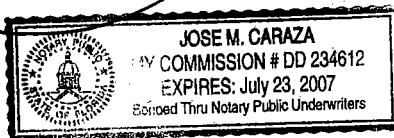
The above is a full disclosure of all parties of interest in this application to the best of my knowledge and belief.

Signature: _____
(Applicant)

Sworn to and subscribed before me this 8 day of December, 05. Affiant is personally known to me or
has produced _____ as identification.

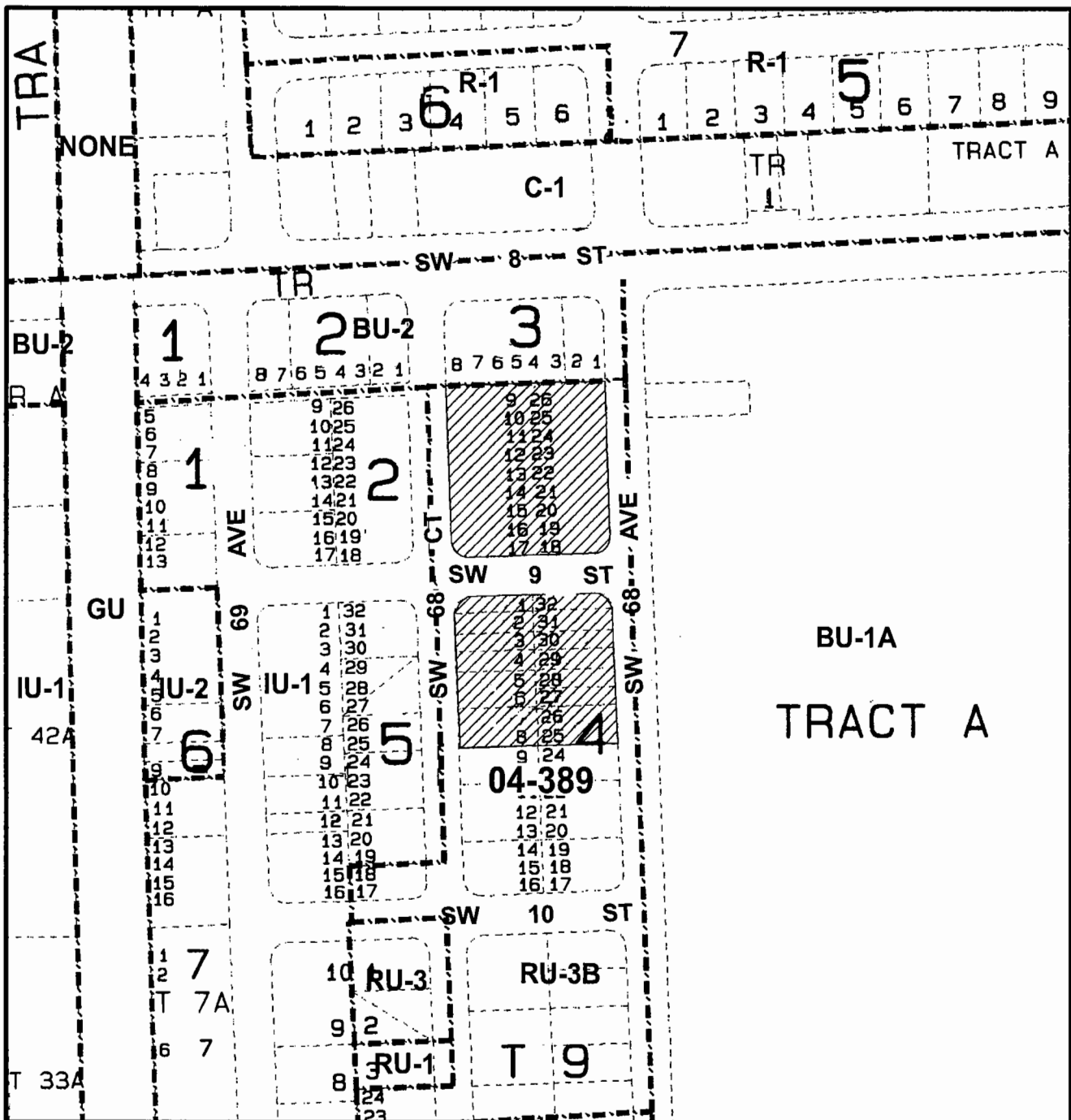
(Notary Public)

My commission expires _____



*Disclosure shall not be required of: 1) any entity, the equity interests in which are regularly traded on an established securities market in the United States or another country; or 2) pension funds or pension trusts of more than five thousand (5,000) ownership interests; or 3) any entity where ownership interests are held in a partnership, corporation or trust consisting of more than five thousand (5,000) separate interests, including all interests at every level of ownership and where no one (1) person or entity holds more than a total of five per cent (5%) of the ownership interest in the partnership, corporation or trust. Entities whose ownership interests are held in a partnership, corporation, or trust consisting of more than five thousand (5,000) separate interests, including all interests at every level of ownership, shall only be required to disclose those ownership interest which exceed five (5) percent of the ownership interest in the partnership, corporation or trust.

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ZONING & PLANNING SECTION
MINNAPOLIS PLANNING AND ZONING DEPT.
BY _____



**MIAMI-DADE COUNTY
HEARING MAP**

Section: 11 Township: 54 Range: 40
 Process Number: 04-389
 Applicant: FRANK & GEORGETTE BREIVOGEL
 District Number: 06
 Zoning Board: C10
 Drafter ALFREDO
 Scale: 1:200'



22



MIAMI-DADE COUNTY
AERIAL

Section: 11 Township: 54 Range: 40
Process Number: 04-389
Applicant: FRANK & GEORGETTE BREIVOGEL
District Number: 06
Zoning Board: C10
Drafter ALFREDO
Scale: NTS

S C A L E
0 NTS N



SUBJECT PROPERTY



8TH STREET HOLDINGS, LLC

This instrument was prepared by:

Name: Tracy R. Slavens, Esq.

Address: Holland & Knight LLP

701 Brickell Avenue, Suite 3000

Miami, Florida 33131

F/K/A: FRANK & GEORGETTE
BREI VOGEL
(04-389)

BCC 5-25-06

(Space reserved for Clerk)

DECLARATION OF RESTRICTIONS

WHEREAS, the undersigned Owner holds the fee simple title to the land in Miami-Dade County, Florida, described in Exhibit "A," attached hereto, and hereinafter called the "Property," which is supported by the attorney's opinion, and

IN ORDER TO ASSURE the County that the representations made by the owner during consideration of Public Hearing No. 04-389 will be abided by the Owner freely, voluntarily and without duress makes the following Declaration of Restrictions covering and running with the Property:

(1) Use Restrictions.

Notwithstanding the approval of the Application or the IU-1 zoning classification, the following uses of the Property shall be prohibited:

(a) Adult entertainment uses, which includes:

1. Adult bookstores;
2. Adult theaters;
3. Adult entertainment clubs;
4. Adult video stores;
5. Massage establishments;
6. Adult modeling establishments; and
7. Encounter studios.

(b) Aircraft hangars and repair shops, aircraft assembling and manufacturing.

(c) Armories, arsenals.



(Space reserved for Clerk)

- (d) Auditoriums.
- (e) Auto painting, top and body work.
- (f) Automobile self-service gas stations.
- (g) Automobile service stations.
- (h) Automotive repairs.
- (i) Automobile and truck rentals and wholesale distribution.
- (j) Blacksmith, gas steam fitting shops.
- (k) Boat or yacht repairing or overhauling, or boat building.
- (l) Boat slips used for the type of boats for the purpose of overhauling or repairing.
- (m) Bottling plants.
- (n) Brewery.
- (o) Canning factories.
- (p) Commercial chicken hatcheries.
- (q) Dredging base or place where dredging supplies are kept and where dredges or boats or machinery are stored, repaired, or rebuilt.
- (r) Grinding shops.
- (s) Insecticide, mixing, packaging and storage.
- (t) Livery stables, for riding clubs, or a stable for sheltering horses.
- (u) Mattress manufacturing and renovating.
- (v) Metalizing processes.
- (w) Novelty works.
- (x) Ornamental metal workshops.
- (y) Oxygen storage and filling of cylinders.
- (z) Passenger and freight – stations and terminals – boats, trucks, buses, and railroads.

(Public Hearing)

(Space reserved for Clerk)

- (aa) Ship chandlers.
 - (bb) Shipyards and dry docks.
 - (cc) Steel fabrication.
 - (dd) Textile, hosiery, and weaving mills.
 - (ee) Vulcanizing.
 - (ff) Welding shops.
 - (gg) Wood and coal yards.
 - (hh) The operation of equipment and appliance center for the testing, repairing, overhauling, and reconditioning of any and all equipment, appliances, and machinery sold by the operator/occupant.
- (2) **Landscape Buffer.** The Owner shall install or cause to be installed a landscaped buffer consisting of a six foot (6') high concrete block structure wall within a twenty foot (20') wide green area, which green area shall be planted with mature trees (consisting of gumbo limbo, live oak, mahogany, or such other species as may be approved by the Department of Planning and Zoning), sixteen feet (16') in height and twenty-five feet (25') on center, and a green buttonwood hedge to be planted on the interior side of the wall, located between the Property and the residential uses to the south of the Property.
- (3) **Miscellaneous.**
- County Inspection.** As further part of this Declaration, it is hereby understood and agreed that any official inspector of Miami-Dade County, or its agents duly authorized, may have the privilege at any time during normal working hours of entering and inspecting the use of the premises to determine whether or not the requirements of the building and zoning regulations and the conditions herein agreed to are being complied with.
- Covenant Running with the Land.** This Declaration on the part of the Owner shall constitute a covenant running with the land and may be recorded, at Owner's expense, in the public records of Miami-Dade County, Florida and shall remain in full force and effect and be binding upon the undersigned Owner, and their heirs, successors and assigns until such time as the same is modified or released. These restrictions during their lifetime shall be for the benefit of, and limitation upon, all present and future owners of the real property and for the benefit of Miami-Dade County and the public welfare. Owner, and their heirs, successors and assigns, acknowledge that acceptance of this Declaration does not in any way obligate or provide a limitation on the County.

(Space reserved for Clerk)

Term. This Declaration is to run with the land and shall be binding on all parties and all persons claiming under it for a period of thirty (30) years from the date this Declaration is recorded after which time it shall be extended automatically for successive periods of ten (10) years each, unless an instrument signed by the, then, owner(s) of the Property has been recorded agreeing to change the covenant in whole, or in part, provided that the Declaration has first been modified or released by Miami-Dade County.

Modification, Amendment, Release. This Declaration of Restrictions may be modified, amended or released as to the land herein described, or any portion thereof, by a written instrument executed by the, then, owner(s) of all of the Property, including joinders of all mortgagees, if any, provided that the same is also approved by the Board of County Commissioners or Community Zoning Appeals Board of Miami-Dade County, Florida, whichever by law has jurisdiction over such matters, after public hearing.

Should this Declaration of Restrictions be so modified, amended or released, the Director of the Miami-Dade County Department of Planning and Zoning, or the executive officer of the successor of such Department, or in the absence of such director or executive officer by his assistant in charge of the office in his absence, shall forthwith execute a written instrument effectuating and acknowledging such modification, amendment or release.

Enforcement. Enforcement shall be by action against any parties or person violating, or attempting to violate, any covenants. The prevailing party in any action or suit pertaining to or arising out of this declaration shall be entitled to recover, in addition to costs and disbursements allowed by law, such sum as the Court may adjudge to be reasonable for the services of his attorney. This enforcement provision shall be in addition to any other remedies available at law, in equity or both.

Authorization for Miami-Dade County to Withhold Permits and Inspections. In the event the terms of this Declaration are not being complied with, in addition to any other remedies available, the County is hereby authorized to withhold any further permits, and refuse to make any inspections or grant any approvals, until such time as this declaration is complied with.

Election of Remedies. All rights, remedies and privileges granted herein shall be deemed to be cumulative and the exercise of any one or more shall neither be deemed to constitute an election of remedies, nor shall it preclude the party exercising the same from exercising such other additional rights, remedies or privileges.

Presumption of Compliance. Where construction has occurred on the Property or any portion thereof, pursuant to a lawful permit issued by the County, and inspections made and approval of occupancy given by the County, then such construction, inspection and approval shall create a rebuttable presumption that the buildings or structures thus constructed comply with the intent and spirit of this Declaration.

Severability. Invalidation of any one of these covenants, by judgment of Court, shall not affect any of the other provisions which shall remain in full force and effect. However, if any material portion is invalidated, the County shall be entitled to revoke any approval predicated upon the invalidated portion

Recording. This Declaration shall be filed of record in the public records of Miami-Dade County, Florida at the cost of the Owners following the approval of the Application. This Declaration shall become effective immediately upon recordation. Notwithstanding the previous sentence, if any appeal is filed, and the disposition of such appeal results in the denial of the application, in its entirety, then this Declaration shall be null and void and of no further effect. Upon the disposition of an appeal that results in the denial of the Application, in its entirety, and upon written request, the Director of the Planning and Zoning Department or the executive officer of the successor of said department, or in the absence of such director or executive officer by his/her assistant in charge of the office in his/her absence, shall forthwith execute a written instrument, in recordable form, acknowledging that this Declaration is null and void and of no further effect.

Acceptance of Declaration. Acceptance of this Declaration does not obligate the County in any manner, nor does it entitle the Owner to a favorable recommendation or approval of any application, zoning or otherwise, and the Board of County Commissioners and/or any appropriate Community Zoning Appeals Board retains its full power and authority to deny each such application in whole or in part and to decline to accept any conveyance or dedication.

Owner. The term Owner shall include the Owner, and its heirs, successors and assigns.

[Execution Pages Follow]

Declaration of Restrictions

Page 6

IN WITNESS WHEREOF, we have hereunto set our hands and seal this 11th day of May, 2006.

WITNESSES

[Signature]
Signature ORLANDO BORGES
Annie H Borges
Printed Name ANNIE H BORGES
[Signature]
Signature
Ismel Borges
Printed Name

8 Street Holdings, LLC., a limited liability company

By: [Signature]
Armando Alonso

STATE OF FLORIDA)
) SS
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me by Armando Alonso, in his capacity as member of 8 Street Holdings, LLC., for the purposes stated herein. He is personally known to me or has produced _____ as identification.

Witness my signature and official seal this 11 day of May, 2006, in the County and State aforesaid.

My Commission Expires: [Signature]
Notary Public - State of Florida
JENNIFER GONZALEZ
Printed Name

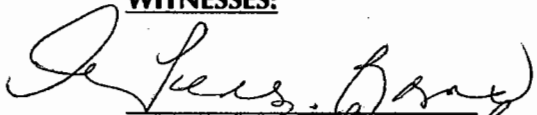
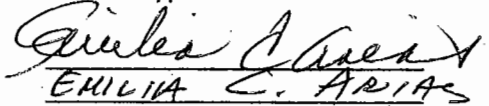


JOINDER BY MORTGAGEE

The undersigned, Regions Bank f/k/a Union Planters Bank, N.A., the Mortgagee under that certain Florida Real Estate Mortgage, Assignment of Leases and Rents and Security Agreement executed as of January 21, 2005 by 8 Street Holdings, LLC, a Florida limited liability company, and recorded in Official Records Book 23019, at Page 0399, of the Public Records of Miami-Dade County, Florida, covering all/or a portion of the property described in the foregoing instrument, does hereby join in this Declaration of Restrictions for the purpose of subjecting the lien and operation of the above-described Mortgage to the terms of this instrument.

IN WITNESS WHEREOF, these presents have been executed this 10th day of May, 2006.

WITNESSES:


MARIA A. PARRAS
Print or Type Name

EMILIA C. ARIAS
Print or Type Name

Regions Bank

By: 

Print Name: JESUS R. GARCIA

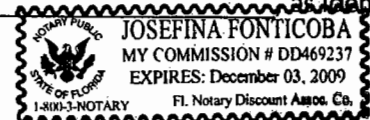
Title: Senior Vice President

Address: 2800 Ponce de Leon Blvd
Conal Gables FL 33134

(Corporate Seal)

STATE OF FLORIDA)
) SS
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 10th day of May, 2006, by JESUS R. GARCIA, as SENIOR VICE PRESIDENT of Regions Bank, MORTGAGEE, on behalf of the bank. He/She is personally known to me or has produced as identification and did/did not take an oath.



My Commission Expires:

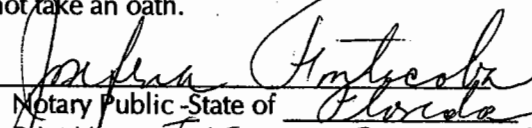

Notary Public - State of Florida
Print Name JOSEFINA FONTICOB

EXHIBIT "A"

Legal Description:

LOTS 1 – 8, IN BOCK 4, LOTS 25 – 32, IN BLOCK 4, LOTS 9 – 25, IN BLOCK 3, OF
TAMIAMI CITY PLAT, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT
BOOK 14, AT PAGE 9 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY,
FLORIDA.

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